



CANNON BUILDING  
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STATE OF DELAWARE  
**DEPARTMENT OF STATE**

DIVISION OF PROFESSIONAL REGULATION

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<b>PUBLIC MEETING MINUTES:</b>	<b>Board of Professional Land Surveyors</b>
<b>MEETING DATE AND TIME:</b>	<b>November 19, 2009 at 8:30 a.m.</b>
<b>PLACE:</b>	<b>861 Silver Lake Blvd., Conference Room A, Second floor, Dover, Delaware</b>
<b>MINUTES APPROVED:</b>	January 21, 2010

**MEMBERS PRESENT**

Stephen Sellers, Chair, Professional Member  
Michael T. Szymanski, Vice-Chair, Professional Member  
Laurence R. McBride, Professional Member  
Mary Chvostal, Public Member  
Joseph McDonough, Public Member  
Frank Szczuka, Secretary, Public Member

**DIVISION STAFF/DEPUTY ATTORNEY GENERAL**

James Collins, Director  
Kay Warren, Deputy Director  
Frederick Schranck, Deputy Attorney General  
Renee' Holt, Administrative Specialist II

**ABSENT/RECUSED MEMBERS**

James Bielicki, Professional Member

**OTHERS PRESENT**

Lorena J. Hartnett, Wilcox & Fetzer – Court Reporter  
John Johnson  
Michael L. Ray  
Jim Bielicki  
Sandy Berger  
John Alexander  
Donald Elrod  
Kevin W. Parsons  
James M. Luff

**CALL TO ORDER**

Mr. Sellers called the meeting to order at 8:38 a.m.

Mr. Szczuka requested to go into Executive Session for discussion. Mr. Schranck clarified subject matter allowable for Executive Session and determined Mr. Szczuka's discussion items were appropriate for public discussion. No Executive Session was called.

Mr. Szczuka emphatically expressed his concern as to the reason why the hearings were being held as he was unaware of the purpose of the hearings since he had not received the draft minutes from the October meeting to review and was not present at that meeting to know the decision of the Board regarding the hearings and clarification of list of approved Continuing Education list used to review the audit submissions. Mr. Schranck and Mr. Szymanski provided explanation and clarification for Mr. Szczuka, and the Board discussed the preapproval of the Continuing Education list.

Mr. Schranck then explained for the Board and the public present the purpose of the hearings being held was in regards to the deficiency of submitted Continuing Education documents requested during the audit and explained the Board's authority, under section 10.9 of the Rules and Regulations, for discipline pertaining to the decisions of the hearings.

*Section 10.9 of the Rules and Regulations reads: The Board shall review all documentation requested of any licensee shown on the audit list. If the Board determines the licensee has met the requirements, the licensee's certificate of registration shall remain in effect. If the Board initially determines the licensee has not met the requirements, the licensee shall be notified and a hearing may be held pursuant to the Administrative Procedures Act. This hearing will be conducted to determine if there are any extenuating circumstances justifying the apparent noncompliance with these requirements. Unjustified noncompliance of these regulations shall be considered misconduct in the practice of land surveying, pursuant to 24 Del.C. §2712. The minimum penalty for unjustified noncompliance shall be a letter of reprimand and a \$250.00 fine.*

#### **EXECUTIVE SESSION – None**

#### **RULE TO SHOW CAUSE HEARINGS**

##### **Members and Staff Present for All Hearings:**

Stephen Sellers, Chair, Professional Member  
Michael T. Szymanski, Vice-Chair, Professional Member  
Laurence R. McBride, Professional Member  
Mary Chvostal, Public Member  
Joseph McDonough, Public Member  
Frank Szczuka, Secretary, Public Member  
Frederick Schranck, Deputy Attorney General  
Renee' Holt, Administrative Specialist II  
Lorena J. Hartnett, Wilcox & Fetzer – Court Reporter

##### ***James Bielicki 8:45 a.m.***

Mr. Bielicki's hearing began at 9:00 a.m. Mr. Schranck conveyed the purpose of the hearing. Mr. Schranck confirmed Mr. Bielicki understood his right to representation and that he was present without representation. Mr. Bielicki confirmed he was present without other representation. The court reporter recorded verbatim testimony. Mr. Bielicki testified he was unaware there was no carryover for continuing education for the renewal period of 2007-2009. The Board clarified Mr. Bielicki was notified via the Board Newsletter and other means of the rule change regarding elimination of the

Continuing Education credit carryover allowance. The Board closed the hearing for deliberations at 9:10 a.m. Deliberations concluded at 9:37 a.m. Mr. Sellers made a motion, seconded by Mr. Szymanski to find Mr. Bielicki guilty of not having the required Continuing Education required. After discussion, the motion was withdrawn. Mr. Szymanski made a motion, seconded by Mr. McBride to find Mr. Bielicki did not meet the continuing education requirements for the 2007-2009 renewal period. The motion passed with a vote of 5 members in favor with Mr. McBride abstaining.

Mr. Szymanski made a motion, seconded by Mr. McDonough, to impose the minimum penalty of a fine of \$250.00 and a letter of reprimand and allow Mr. Bielicki 1 year to make up the 6 Professional Development Hours (PDHs) not completed for the renewal period and also be required to have the 24 PDHs complete for the upcoming licensing period. The motion passed with a vote of 4 in favor. Mr. Szczuka voted against the motion, and Mr. McBride abstained.

The hearing concluded at 9:41 a.m.

Mr. Szczuka requested a clarification of the rules regarding disciplinary actions and what quorum of members is required to carry a vote. Mr. Schranck clarified the rules of disciplinary actions and clarified the requirements of a quorum.

***John Alexander 9:00 a.m.***

Mr. Alexander's hearing began at 9:45 a.m. Mr. Schranck confirmed Mr. Alexander was aware he had the right to representation and was present at the hearing without representation. Mr. Alexander confirmed he was present without representation. The court reporter recorded verbatim testimony. Mr. Alexander stated he did not receive the audit notice. Mr. Alexander testified when he received the October notice of the hearing he did not respond as he was under the understanding that he was not required to complete any PDHs due to the date of his initial licensure. Mr. Schranck confirmed Mr. Alexander was licensed on 12/19/2008 and therefore was not required to have PDHs for the renewal period of 2007-2009. The hearing closed at 9:53 a.m. Mr. McBride made a motion, seconded by Mr. Szymanski to dismiss the matter. The motion was unanimously approved. The Board apologized to Mr. Alexander for the inconvenience. The hearing closed at 9:55 a.m.

***David Artman 9:15 a.m.***

Mr. Artman's hearing began at 9:55 a.m. Mr. Schranck confirmed Mr. Artman was aware he had the right to representation and was present without representation. Mr. Artman confirmed he was present without representation. The court reporter recorded verbatim testimony. The hearing recessed at 9:57 a.m. while Ms. Holt confirmed Mr. Artman's initial licensure date. The hearing resumed at 9:58 a.m. Ms. Holt confirmed Mr. Artman had recently been licensed in 2009. (*Initial licensure date was 1/6/09*). The hearing closed at 10:00 a.m. Mr. Szczuka made a motion, seconded by Mr. Szymanski to dismiss the hearing and excuse Mr. Artman. The motion was unanimously approved. The hearing closed at 10:01 a.m.

***Joseph Filippone 9:30 a.m.***

Mr. Filippone was not present. Mr. Schranck advised the Board to move to the next hearing until Ms. Holt confirmed Mr. Filippone's initial licensure date.

***James Strothers 10:00 a.m.***

Mr. Strothers' hearing began at 10:06 a.m. Mr. Schranck read into the record the written response of Mr. Strothers. Mr. Strothers advised in his correspondence he was unable to attend the hearing due

to family issues and provided additional information with his correspondence. The Board tabled the hearing at 10:07 a.m. upon the advice of Mr. Schranck.

**Michael Ray 10:15 a.m.**

Mr. Schranck confirmed Mr. Ray had the right to representation and was present without representation. Mr. Ray confirmed he was aware of his right to representation and was present without representation. The court reporter recorded verbatim testimony. Mr. Schranck informed the Board that Mr. Ray responded in writing with additional documentation regarding the audit notice. Mr. Ray made an opening statement. Ms. Warren left the hearing at 10:13 a.m. The Board addressed questions to Mr. Ray. The hearing closed for deliberations at 10:20 a.m. Mr. Collins left the hearing at 10:20 a.m. The hearing resumed at 10:41 a.m. Mr. McBride made a motion, seconded by Mr. McDonough that Mr. Ray was in violation of the rules and regulations. The motion was unanimously approved. Mr. Szczuka requested the rule violation be cited for the record. Mr. Szczuka made a motion, seconded by Mr. McBride to add the reference to the violation of Rule 10.1 and 10.2. The motion was unanimously approved. Mr. Szczuka made a motion, seconded by Mr. Szymanski to impose a fine of \$500.00. The motion was unanimously approved. Mr. Szczuka made a motion, seconded by Mr. Szymanski to issue a letter of reprimand. Mr. Szymanski made a motion, seconded by Mr. McBride to amend the motion to include that Mr. Ray be required to make up the deficiency of 24 PDHs in 1 year and those PDHs will not be included in the required 24 PDHs for the next licensure period. The motion was unanimously approved. Mr. Szczuka made a motion, seconded by Mr. McBride to suspend Mr. Ray's license for 1 year. After discussion, Mr. Szczuka withdrew the motion. Mr. Szczuka made a motion, seconded by Mr. McBride to suspend Mr. Ray's license until proof is provided to the Board that the PDHs are brought up to date for the preceding biennial year. After discussion, the motion was unanimously approved. The hearing closed at 10:58 a.m.

**Joseph Filippone:** Mr. Schranck stated that the Division of Professional Regulation licensed Mr. Filippone on 1/6/09 and the hearing should be dismissed. Mr. McBride made a motion, seconded by Mr. McDonough that Mr. Filippone be excused from the proceeding and a letter be sent to that effect. The motion was unanimously approved.

**Kevin Parsons 10:30 a.m.**

Mr. Parsons's hearing began at 11:00 a.m. Mr. Schranck confirmed Mr. Parsons had the right to representation and was present without representation. Mr. Parsons confirmed he was aware of his right to representation and was present without representation. The court reporter recorded verbatim testimony. Mr. Schranck clarified Mr. Parsons' deficiency was for 8 PDHs. Mr. Parsons admitted he misunderstood the conditions of "biennial" regarding licensure and submitted documents within the two year period of his initial licensure. Mr. Parsons submitted additional documentation for courses taken within the biennial period being audited. Mr. Schranck read the documents into the record. Mr. Parsons also testified to his opinion as to how the courses were applicable for his professional development. The hearing closed at 11:16 a.m. for deliberations. The deliberations ended at 11:29 a.m. Mr. Szymanski made a motion, seconded by Mr. McBride that based on the additional documents submitted Mr. Parsons is not in violation of Rule 10.0. The motion was unanimously approved.

The hearing closed at 11:30 a.m. The Board recessed at 11:30 a.m. for a break. The recess ended at 11:39 a.m.

**Stephen Kilchenstein 10:45 a.m.**

Mr. Kilchenstein's hearing began at 11:40 a.m. Mr. Kilchenstein was not in attendance. Mr. Schranck read into the record Mr. Kilchenstein's letter to the Board and subsequent response to the hearing

notification. Mr. Schranck advised the Board of their options for proceeding. The hearing closed at 11:49 a.m. for deliberations. The hearing resumed at 12:04 p.m. Mr. Szymanski made a motion, seconded by Mr. McBride to find Mr. Kilchenstein in violation of Rule 10.1. The motion was unanimously approved. Mr. Szymanski made a motion, seconded by Mr. McBride to fine Mr. Kilchenstein \$500.00. The motion was unanimously approved. Mr. Szymanski made a motion, seconded by Mr. McBride to issue Mr. Kilchenstein a letter of reprimand. The motion was unanimously approved. Mr. Szymanski made a motion, seconded by Mr. McBride to suspend Mr. Kilchenstein's license until proof of completion of the 24 PDHs for biennial is received. After discussion, the motion carried with a vote of 5 in favor and Mr. McDonough voting no. Mr. McDonough made a motion that if Mr. Kilchenstein does not provide proof of completion of the 24 PDHs, the suspension turns into a revocation. Mr. Schranck advised that was not legal. Mr. Kilchenstein would have to be called for a hearing to address not providing the documents and then action could be taken. The hearing concluded at 12:08 p.m.

***James Luff      11:00 a.m.***

Mr. Luff's hearing began at 12:08 p.m. Mr. Schranck confirmed Mr. Luff was aware of his right to representation and that Mr. Luff was present without representation. Mr. Luff confirmed he was aware of his right and attended without representation. The court reporter recorded verbatim testimony. The hearing closed at 12:16 p.m. for deliberations. The hearing resumed at 12:27 p.m. Mr. Szymanski made a motion, seconded by Mr. McBride to find Mr. Luff in violation of Rule 10.2. The motion was unanimously approved. Mr. Szymanski made a motion, seconded by Mr. Szczuka to fine Mr. Luff \$250.00 and issue a letter of reprimand. The motion was unanimously approved. Mr. Szymanski made a motion seconded by Mr. McBride that Mr. Luff be required to obtain 2 hours in ethics that cannot be used toward the upcoming biennial renewal. The motion passed with 5 voting yes and Mr. Szczuka abstaining. Mr. Luff requested the Board clarify which courses are ethics. After explanation, the hearing concluded at 12:32 p.m.

The Board adjourned for lunch at 12:36 p.m. The meeting resumed at 1:04 p.m.

**REVIEW OF MINUTES**

The Board tabled the reviewed of the meeting minutes for the October 15, 2009 board meeting.

**UNFINISHED BUSINESS**

Review of Draft Survey Intern Application – It was reported the application was presently being reviewed and Ms. Holt will update the Board by email with the status of the document.

Update on Audit of Regulatory Agencies – Mr. Schranck reported he would follow up with Ms. Reardon.

Clarification of Hearing Quorum – Mr. Schranck confirmed this item was resolved and can be removed from the future agendas.

Correspondence from Mr. Stephen Johns – Mr. Sellers will send a letter of acknowledgement to Mr. Johns. Mr. Szymanski suggested forming a subcommittee to review the Rules and Regulations in regards to continuing education after the hearings are completed.

Review of Rules and Regulations comments – Upon review of the volume of documents, Mr. Szymanski requested Ms. Holt scan the documents and forward to the Board for review electronically. Mr. Szymanski requested this be a recurring item on the agenda.

05-01-09 Consent Agreement Laurence McBride/Contact Person

Mr. Schranck advised the Board of the conditions of the Consent Agreement. Mr. Schranck explained the Board could either accept the agreement or move forward with a disciplinary hearing. Mr. McBride made a motion, seconded by Mr. Szczuka to reject the consent agreement and have a hearing. The motion was unanimously approved. Mr. Schranck explained the investigative and complaint processes.

Review of Continuing Education

Mr. Szymanski made a motion, seconded by Mr. McBride to approve the courses submitted by Land Surveyors Workshops and tabled at the September meeting and listed below for the hours requested. The motion was unanimously approved.

Horizontal Alignment Requesting 4 pdh's

The Surveyor's Role in the FEMA Flood Ins Program - Requesting 4 pdh's

The Surveyor's Role in Mediation – Requesting 4 pdh's

Anatomy of a Claim – Requesting 4 pdh's

The Expert Witness-Rule 26 Disclosure Reports – Requesting 4 pdh's

Ethics – Reviewing Professional Ethics and Responsibilities – Requesting 1.5 pdh's

Insurance Needs of the Surveyors – Requesting 4 pdh's

Hydrology for Surveyors II – Requesting 4 pdh's

FEMA for Land Surveyors – Requesting 4 pdh's

Drawing a map using your computer: The basics after initial set-up – Requesting 8 pdh's

Carlson/C&G Survey Software: Organizing and setting up CAP drawings for beginners (initial setup and beyond) Requesting 8 pdh's

Advanced techniques for Carlson or C&G Software – Requesting 8 pdh's

The New Standards and How to apply them – Requesting 4 pdh's

Electronic Seals and Signatures – are you in danger? Requesting 2 pdh's

Introduction to laser scanning – Requesting 4 pdh's

Maps and Charts – Requesting 4 pdh's

Marketing, PR and Advertising for the small professional office– Requesting 4 pdh's

Organize your computer files (emphasis on CAD files) – Requesting 4 pdh's

Small business management tools with spreadsheets– Requesting 4 pdh's

The seven deadly sins of surveying– Requesting 4 pdh's

SurvCE Introduction Course Outline – field users– Requesting 4 pdh's

Using Microsoft word and Excel in a small surveying office– Requesting 4 pdh's

Contract Basics for land surveyors – Requesting 4 pdh's

Datums and Coordinate Systems– Requesting 4 pdh's

GPS Real-Time Kinematic (RTK) Surveying – Requesting 4 pdh's

The Gravity of Surveying – Requesting 4 pdh's

Introduction to the Global Positioning System– Requesting 4 pdh's

Managing the client relationship – Requesting 4 pdh's

Tectonics and Surveying – Requesting 4 pdh's

Mr. Sellers made a motion to add to Unfinished Business Item 5.8 Letters of Concern. Mr. McBride seconded the motion. The motion was unanimously approved.

Letters of Concern

Mr. Schranck advised the process the Board employed for issuing the Letters of Concern was a sufficiently legal process knowing there is a preferred alternative employed by the Division of Professional Regulation. Mr. Schranck advised the Board they could revisit the issue and reopen the individual cases and address them with the preferred method, or they could dismiss the letters

outright, or they could leave them the way they are. Mr. Schranck stated it is not a legal issue, but a policy issue. Mr. Schranck clarified the Division of Professional Regulation did not inform the Board they violated due process. Mr. McBride made a suggestion to leave the old letters as they stand and in the future use the preferred policy of the Division of Professional Regulation's process.

## **NEW BUSINESS**

### Courses for Continuing Education Approval –

Land Surveyor's Workshops - Ethics- Reviewing Professional Ethics & Responsibilities Using the Internet – requesting 1.5 PDHs. Mr. Szymanski made a motion, seconded by Mr. McBride to table the course by this provider listed on the agenda as item 5.7.6 until clarification is received that it is not the same course as this course. The motion was unanimously approved.

Mr. Szymanski made a motion, seconded by Mr. McBride to reject the course because it is a DVD course. The motion was unanimously approved.

Land Surveyor's Workshops - Ethics for Land Surveyors – November 1, 2009 through June 1, 2011 requesting 4 PDHs and Ethics for Land Surveyors – requesting 4 PDHs – *clarification needed on the date* – were reviewed. Mr. McBride made a motion, seconded by Mr. Szymanski to approve the courses for the requested PDHs. The motion was unanimously approved.

Land Surveyor's Workshops – Analysis & Adjustment of Survey Traverses – requesting 4 PDHs. Mr. Szymanski made a motion, seconded by Mr. McDonough to approve the course for the requested PDHs. The motion was unanimously approved.

DELDOT – DELDOT Subdivision Review Process Training Session – requesting 2 PDHs. Mr. McBride made a motion, seconded by Mr. Szczuka to approve the course for the requested PDHs. The motion was unanimously approved.

### Review of Application for Licensure by Reciprocity –

Joseph Sturtz – Mr. Szymanski made a motion, seconded by Mr. McBride to table the application until confirmation of successful completion of the FS and PS exams is received. The motion was unanimously approved (Mr. Szczuka was not present for the review and vote.)

### Review of Application for Licensure by Examination – None

### Review of Land Surveying Certificate of Authorization Application

Karins Engineering, Inc. – Mr. Sellers informed Ms. Holt the Board did not need to see the applications unless there was a complaint and issue arose.

### Complaint Assignments – None

### Hearings/Consent Agreements

### December 7, 2009 Hearing Schedule

Douglas Williams	8:45 a.m.
Aleksander Grkovic	9:00 a.m.
Paul Moody	9:15 a.m.
James Chandler	9:30 a.m.
James Conlow	9:45 a.m.
Robert Stout	10:00 a.m.
Landon Woodward	10:15 a.m.
Bernard Nolan	10:30 a.m.

Richard Morale	10:45 a.m.
Howard Doran	11:00 a.m.
Charles Karat	11:15 a.m.
Walter Noyes	11:30 a.m.
Jonathan Russell	1:00 p.m.
Nicholas Remy	1:15 p.m.
Michael Given	1:30 p.m.
William Anderson	1:45 p.m.
William Wichess	2:00 p.m.
Peter Bloodgood	2:30 p.m.
Theodore Simpler	2:45 p.m.
Timothy Summerall	3:00 p.m.
Timothy Cawood	3:15 p.m.
Richard Schulz	3:30 p.m.
Heath Dumack	3:45 p.m.

December 17, 2009 Hearing Schedule

Roy Ziegler	8:45 a.m.
Kenneth O'Connell	9:00 a.m.
Edwin Kuipers	9:15 a.m.
Uzoma Ahiaakwe	9:30 a.m.
Douglas Loewer	9:45 a.m.
Robert Heggan	10:00 a.m.
Robert Worthington	10:15 a.m.
Bruce Flora	10:30 a.m.
Franklin Jones	10:45 a.m.
Timothy Martin	11:00 a.m.
Andrew Putnam	11:15 a.m.
James O'Connor	11:30 a.m.
Michael Fisher	11:45 a.m.
Edward Kelly	12:00 p.m.

Mr. Szymanski requested the Division of Professional Regulation check the retired status and prorated requirements as the requirements are different according to Rule 10.5 for retired licensees.

Mr. Szymanski suggested a process to record retired status be developed and the approved PDH course list be alphabetized. Ms. Holt will request the administrative processes be developed to indicate retired status on the list for the Board during an audit.

Mr. Szymanski and Mr. Szczuka discussed the approved course requirements for the audit.

**Correspondence –**

Ms. Holt read an anonymous letter received by the office to the Board.

**Certificates**

Mr. Rudy Junke's certificate was signed.

**Other Business before the Board (for discussion only)** - None

**Public Comment** – None

**Next Scheduled Meeting**



The next meeting will be held on December 7, 2009 at 8:30 a.m. in Conference Room A, second floor of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware for hearings only.

**Adjournment**

There being no further business, Mr. McDonough made a motion, seconded by Mr. Szymanski to adjourn the meeting at 2:24 p.m. The motion was unanimously carried.

Respectfully submitted,

Debbie Heinsch

A handwritten signature in cursive script, appearing to read "Debbie Heinsch".

Administrative Specialist II  
Delaware Board of Professional Land Surveyors